

EXHIBIT A

Terri Pechner-James

June 22 Deposition Excerpts - Competence

1. Pages 1571 – 1575:

1 Q. All right. And how are you

2 feeling?

3 A. Fine.

4 Q. I'm sorry?

5 A. Fine.

6 Q. Yesterday, when we took Sonia

7 Fernandez' deposition, she mentioned that she

8 had talked to you the night before and that

9 you were ill. Are you still ill or are you

10 okay?

11 A. I'm still ill.

12 Q. Okay. What are you suffering from?

13 A. Posttraumatic stress disorder.

14 Q. All right. Aside from that, are

15 you suffering from any physical illness today?

16 A. Yes.

17 Q. What?

18 A. It's personal.

19 Q. Okay. Is whatever you're suffering

20 from in any way going to affect your ability

21 to testify --

22 A. No.

23 Q. -- answer my questions?

24 A. No.

1 Q. Okay. I'm sorry. When I'm sitting
2 here looking at someone that's kind of staring
3 off into space, I'm getting a sense that I'm
4 not really in any way connecting here with you
5 and you're kind of off in la-la land. Am I
6 mistaken?

7 A. You've said that at every
8 deposition. Just ask your questions. You're
9 wasting time.

10 Q. Ms. Pechner, let me explain
11 something to you, and I want to make this very
12 clear.

13 MR. DILDAY: Let me say this. If
14 she looks at the ceiling, it doesn't matter,
15 as long as she answers your questions, Walter.

16 MR. PORR: Okay. But I'm getting a
17 sense from the witness that she is not here.
18 I know her body is sitting across the table
19 from me, but the responses are flat, they are

20 monotone, she is staring off into space, her
21 voice is low.

22 I've asked her to bring it up a
23 couple times given the circumstances. We
24 explained it before the deposition started. I
1 reiterated it after the deposition started. I
2 sense a vacancy in the stare. All right?

3 She's taken four different
4 medications. She's complaining about her
5 posttraumatic stress, and she's got a physical
6 illness that is personal and she doesn't want
7 to talk about, which I respect, but I'm trying
8 to make sure she's okay in terms of being
9 deposed.

10 And so when I look at a witness
11 under those conditions, I'm concerned that
12 despite the answers I'm getting that maybe,
13 you know, there's an issue here. So that's
14 what I'm trying to address to make sure that
15 she is okay to go forward today.

16 MR. DILDAY: Well, she said she's
17 okay.

18 MR. PORR: Well, that's fine.

19 MR. DILDAY: One of the issues is
20 that she does not want to be here, but she's
21 ready to go, and, as she said, let's go
22 forward.

23 MR. PORR: All right. And that led
24 to the point that I'm the cross-examiner, not
1 her. I will ask the questions that I feel are
2 necessary and appropriate to make sure that we
3 have an effective deposition session. So it's
4 not for her to tell me what questions to ask.

5 MR. DILDAY: Don't point your pen
6 at her, please. You don't have to do that.

7 MR. PORR: Okay.

8 MR. DILDAY: Just make your point
9 and start to ask your questions.

10 MR. PORR: All right. I'll do
11 that.

12 Q. At the conclusion of the last
13 deposition session on June 7th, you were
14 complaining about your PTSD and how it was
15 impacting you.

16 Is your PTSD going to prevent you
17 from testifying this morning?

18 A. No.

19 Q. Okay. Have you seen any doctors
20 since the last deposition session on June 7th?

21 A. Yes.

22 Q. Who did you see and when?

23 A. Dr. Gingrich, my primary care
24 doctor.

1 Q. Okay. When did you see him?

2 A. Last week. I don't know the day.

3 Q. Did you see him for the condition
4 that's affecting you now?

5 A. Yes.

6 Q. Okay. Did you see any other
7 doctors for anything else?

8 A. No.

9 Q. Have you visited the On-Site
10 Academy since the last deposition session?

11 A. No.

2. Pages 1596 – 1601:

11 Q. Okay. Referring to paragraph 59 of
12 the complaint, this involved Sergeant Doherty
13 and the sports commentator remarks. We've

14 established previously that that may have been
15 the World Series of '97, maybe the Super Bowl
16 of January of '98. The date's not entirely
17 certain.

18 Did you have any incidents
19 involving Sergeant Doherty after the sports
20 commentator comment until the time you
21 transferred off the shift sometime between
22 April and July '99?

23 A. Yes.

24 Q. What other incidents did you have
1 with Doherty?

2 A. I don't know.

3 Q. Ms. James, you understand my
4 question was geared to the time frame of the
5 sports commentator comment until April to
6 July of '99, did you not?

7 A. No.

8 Q. Okay. Then I'll reask the
9 question. Paragraph 59 of the complaint talks
10 about the sports commentator incident with
11 Sergeant Doherty, correct?

12 A. Correct.

13 Q. We previously established at prior
14 depositions that it may have been the Super
15 Bowl of January of '98, it may have been the
16 World Series of October of '97, whichever it
17 is, from the time of the sports commentator
18 incident until the time you transferred off
19 the shift sometime between April and July of
20 '99, did you have any other incidents
21 involving Sergeant Doherty?

22 A. I had an incident. I don't
23 remember what the date was.

24 Q. And what incident are you referring
1 to?

2 A. The incident where I spoke before
3 about him asking me to call Pat Cappola into
4 the station for a detail.

5 Q. Look at page 17 of your notes,
6 please, and the big paragraph in the top half,
7 August 30, 2000, is that the Pat Cappola
8 incident you're talking about with Sergeant
9 Doherty?

10 A. Yes.

11 Q. That's August 30, 2000. That's a

12 year beyond the time parameters I gave.

13 A. Okay.

14 Q. Are you having a hard time

15 focusing?

16 A. No.

17 Q. Okay. Well, I'm just looking at

18 someone that's giving me a vacant stare. I

19 asked a very simple question. I defined the

20 time parameters very clearly and yet you gave

21 me the Pat Cappola answer today just like you

22 gave me back on June 7th, and I spent a good

23 bit of time this morning going over that

24 testimony, so I'm confused as to why you're

1 having a hard time.

2 MR. DILDAY: She's not having a

3 hard time. She's answering as best she can.

4 MR. PORR: As best she can, she

5 just gave me an answer involving Pat Cappola,

6 which is a year beyond the time frame I

7 specified for my question --

8 MR. DILDAY: I think it's

9 obvious --

10 MR. PORR: -- and it's the same

11 problem.

12 MR. DILDAY: I think it's obvious
13 that the time frame that you're talking about
14 this incident didn't take place in.

15 MR. PORR: Why did she give it to
16 me as a response to my question?

17 MR. DILDAY: She probably doesn't
18 remember.

19 MR. PORR: Again, we just went over
20 that from the previous deposition session
21 except --

22 MR. DILDAY: Mr. Porr, I think we
23 understand what you're saying. If you have
24 another point to make, you should try it.

1 Otherwise, she made an answer that doesn't
2 chronologically relate.

3 MR. PORR: And my concern is I'm
4 sitting across the table from someone, and I'm
5 getting just an absolute flat effect, blank
6 stare, and I'm just concerned that she's here
7 physically but mentally she's not. And I'm
8 making that clear on the record because I
9 don't want this to come back and bite me

10 somehow later, you know.

11 And when she gives a totally
12 nonresponsive answer like that, after we
13 already went through that she gave me the same
14 nonresponsive answer at the prior deposition
15 session, I'm concerned there's something
16 wrong, and so I'm raising my concern that
17 there's something wrong with the witness so it
18 can be addressed.

19 Because I'm stunned that I'm
20 getting the same nonresponsive answer when I
21 tried so carefully, you know, to make sure
22 that the witness was focused, the question was
23 clear, and I could get -- get, you know, a
24 decent answer. So if you tell me your witness
1 is fine, I'll continue on.

2 MR. DILDAY: I understand what
3 you're saying. I don't know how to respond to
4 you on that issue. I don't.

5 MR. PORR: Okay. You're her
6 attorney, and if you tell me your client is
7 able to continue, we'll continue.

8 MR. DILDAY: We're going to

9 continue until she says she can't.

10 MR. PORR: All right.

3. Page 1646:

11 Q. Are you okay, Ms. Pechner -- or

12 Ms. James? Excuse me.

13 A. Yes.

4. Pages 1683 – 1684:

20 Q. Okay. You're sitting here with

21 your head in your hands, your eyes closed,

22 staring down. Are you okay?

23 A. Yes.

24 Q. Are we okay to continue?

1 A. Yes.

5. Pages 1693 – 1694 and 1696:

18 MR. PORR: We're back on the

19 record.

20 Q. And before we resume, Ms. Pechner,

21 I notice -- I'm sorry. Ms. James. Please

22 forgive me because I've looked at so many

23 records that have your maiden name versus your
24 married name, that's the name that sticks in
1 my mind.

2 Ms. James, I notice that you have
3 put on your sunglasses, correct?

4 A. Correct.

5 Q. The last time you did that was at a
6 deposition session at Mr. Akerson's office,
7 and you did so because you were having a
8 migraine at the time. Is that true now?

9 A. Yes.

10 Q. I'll come back to that in a moment.

[1696]

12 Q. Now, Ms. James, back to your
13 migraine headache. Is your migraine headache
14 such that you can't continue today, or do you
15 think you can work through it?

16 A. Work through it.

17 Q. Okay. Let me know if for any
18 reason you think you cannot. All right?

19 A. Yup.

6. Pages 1723 – 1725:

10 Q. Ms. James, you've got your hands in
11 front of your head and you've got your face
12 down, and madam reporter is really straining
13 to hear you, and it makes it difficult for her
14 to take down what you're saying given the
15 posture that you've adopted and your low
16 voice.

17 Can we do something about that? I
18 mean, at lease out of respect for her, if you
19 could speak up so that she could hear you.

20 A. Attorney Porr, this isn't a respect
21 thing. Okay? I have gone through nine
22 depositions. Okay? Nine. This has nothing
23 to do with respect. I've never had a problem
24 with Attorney Akerson. I've answered the
1 questions. I'm physically and mentally sick.
2 Okay?

3 Q. Are you physically --

4 A. I have a migraine. I have a
5 migraine and it's taken -- this has taken a
6 toll on me. Okay?

7 Q. Are you physically and mentally

8 sick to the point where you can't continue?

9 A. I need to finish this case and I

10 will do whatever it is that I have to, to

11 finish the case. Okay?

12 If I can't speak up because I have

13 a migraine, that's what happens when I have

14 migraines. Okay?

15 If I can't remember something that

16 you want me to answer in your way, it's

17 because I can't remember it.

18 Q. Okay.

19 A. I'm trying to do my best at this

20 deposition under the conditions. Okay?

21 Q. What conditions?

22 A. Under the conditions.

23 Q. What conditions?

24 A. That this room here is where I was

1 sworn in as a police officer. Okay?

2 Q. Okay. Would you prefer we move to

3 a different room?

4 A. You know what? I just want to get

5 the depositions over with.

6 MR. CAPIZZI: I've raised this with

7 Mr. Dilday about not doing them here because

8 of the allegations made. He prefers this for

9 his convenience. That's why we're here.

10 Mr. Akerson's depositions are supposed to be

11 conducted in Worcester.

12 We're doing it here as a

13 convenience to both Mr. Dilday and his

14 clients. I've had a brief discussion about

15 this in the past. I just want that known on

16 the record.